

**MINUTES OF THE MARINE ADVISORY BOARD
 100 NORTH ANDREWS AVENUE
 8TH FLOOR CONFERENCE ROOM
 FORT LAUDERDALE, FLORIDA
 THURSDAY, FEBRUARY 4, 2010 – 7:00 P.M.**

<u>Board Members</u>	<u>Attendance</u>	Cumulative Attendance 5/2009 through 4/2010	
		<u>Present</u>	<u>Absent</u>
John Terrill, Chair	P	8	0
Barry Flanigan, Vice Chair	P	6	2
F. St. George Guardabassi		0	0
Mark Swenson	P	5	3
Randolph Adams	P	6	2
Norbert McLaughlin	P	8	0
Tish Flavin	P	6	0
John Baker	A	4	4
Emilio DiPietro	P	4	4
Bob Ross	P	8	0
Lisa Scott-Founds	P	5	3
Stephen Tilbrook	P	5	3
Tom Tapp	P	5	2
Herb Rassing	A	7	1
James Harrison	P	2	0

As of this date, there are 15 appointed members to the Board, which means 8 would constitute a quorum.

Staff

Jamie Hart, Supervisor of Marine Facilities
 Andrew Cuba, Marina Manager
 Levend Ekendiz, Intracoastal Facilities Dockmaster
 Matt Domke, Downtown Facilities Dockmaster
 Sergeant Andy Pallen, Marine Police Staff
 Officer Mayo, Marine Police Staff
 Romney Rogers, City Commissioner
 Brigitte Chiappetta, Recording Secretary, Prototype, Inc.

Communications to City Commission

None at this time.

I. Call to Order / Roll Call

Chair Terrill called the meeting to order at 7:05 p.m. and roll was called. Chair Terrill welcomed City Commissioner Rogers to the meeting.

II. Approval of Minutes – January 7, 2010

Motion made by Mr. Ross, seconded by Mr. Adams, to approve the minutes of the January 7, 2010. In a voice vote, the **motion** carried unanimously.

III. Statement of Quorum

It was noted that the eight Board members necessary to constitute a quorum were present.

IV. Introduction of New Member

New member F. St. George Guardabassi was not present.

V. Waterway Crime & Boating Safety Report

Sgt. Andy Pallen, representing the Fort Lauderdale Marine Police Unit, stated that there were two minor boat accidents, one involving the *Jungle Queen*, which hit two docked vessels on the New River. There was also some wake damage caused by a boat rushing under the Davie Boulevard Bridge, and wake damage sustained by the *Caribbean Spirit* at the Lauderdale Marina.

He reminded the Board that there has been an increase in abandoned vessels, most likely due to the current economy; two of these occurred in January.

On January 8, 2010, a large vessel was leaving the inlet on a sea trial and caught fire; responders were unable to put this fire out before the boat became engulfed. Sgt. Pallen advised that Officer Mayo, who was present at tonight's meeting, rescued two individuals from that boat as it was being towed. The Board gave a round of applause for Officer Mayo at this time.

There were two unrelated burglaries, one of which was a "crime of opportunity" in which a chart plotter was taken from an open helm. The other burglary involved the theft of two jet skis; one week later, fishing poles were stolen from the same vessel. Night patrols have focused more closely on the area, although there has been no more criminal activity since January 13.

The Marine Police Unit is presently concentrating on Super Bowl-related events, including the upcoming concert on the beach, which they will be patrolling with the Broward Sheriff's Office and the U.S. Coast Guard.

Mr. Ross asked for the general location of the two burglaries. Sgt. Pallen replied they occurred off Aqua Vista and on NE 20th Avenue.

Mr. McLaughlin asked what is done with abandoned vessels. Sgt. Pallen stated that all abandoned vessels, thus far, have been "of no value" and were destroyed.

Frank Herhold, representing the Marine Industries Association of South Florida, asked if anchoring offshore will be allowed on the night of the upcoming beach concert (February 6), as he had been informed this would not be permitted. Sgt. Pallen responded that this was due to the Fish and Wildlife Conservation Commission, who wished to reduce as much hazardous impact to the reefs as possible; it was not a City issue.

Mr. Tilbrook asked if the City funds the cost of removing abandoned boats, and if this activity creates a net loss. Sgt. Pallen advised that the cost is "pretty significant." The City is attempting to find grant funding from the State to cover these costs; presently, they are attempting to identify the owners who have abandoned the vessels, who will be charged with felony dumping if they are identified. The City is pursuing leads in two such cases at the moment.

Mr. Tilbrook asked what the annual budget is for these removals. Mr. Hart stated there is "a very limited budget," although they have requested more funding and are seeking applicable grants for this expense. Sgt. Pallen explained that often the City must fund the cost of removal before a grant can be found, as vessels must be removed before they become navigation hazards or environmental issues.

VI. Application – Dock Waiver of Limitations / ULDR 47.19.3 – 1720 S.E. 25th Avenue: Joshua L. McKinney

Michelle Charlevoix, representing the Applicant, explained that Mr. McKinney is seeking a waiver for a boat lift on a 25x6 ft. dock. The City originally issued a permit, which would have allowed the boat lift to be located on the north side of the dock; however, the owner changed his mind due to maneuverability issues and submitted a permit to revise placement to the south side of the dock. At this time, the Zoning Department realized that the property line was 11 ft. behind the existing bulkhead and informed Mr. McKinney that a waiver would be required.

Ms. Charlevoix noted that the canal on which Mr. McKinney is seeking to place the lift is platted to be 120 ft. wide, but was apparently not excavated to this width; consequently, the property lines of all residents on the street are set back 9 to 11 ft. from the existing bulkhead.

Mr. Tapp asked if the property owners have riparian rights “out to the water.” Ms. Charlevoix stated that all 13 residents on the same side of the canal share the same issue.

Mr. Tilbrook observed that the property seems to extend up to the right-of-way, which would be an argument in favor of riparian rights. Mr. Hart agreed this would be the case, as has been decided in similar cases on canals. He described the conditions as “a very unusual case.”

Ms. Charlevoix advised that all neighbors are using the area as part of their property, but pointed out that some may not be aware of this issue, as Mr. McKinney was not.

Mr. Tapp asked what would happen when the seawall must be replaced. Mr. Hart replied it must be maintained by the owners within their riparian rights.

Vice Chair Flanigan stated he had visited the site, and when looking down the canal, “other people have boats.” He added that the City has apparently acknowledged that a mistake was made, and it seemed the City could take steps to bring relief from the waiver process to the affected owners.

Mr. Tilbrook advised that one way to resolve the issue would be to amend the Code to measure from the property line for the bulkhead. He also suggested the property owners could seek title to the upland “up to the seawall.”

Ms. Charlevoix pointed out that the Applicant shared many of these same questions.

Mr. McLaughlin explained that the Army Corps of Engineers would measure “from the wet face of that seawall” rather than from the property line, and if an owner extends past this area, they can make the owner move back.

Mr. Ross stated he had visited the property with the president of the Applicant’s neighborhood association, who has “no problem” with the Application.

There being no further questions from the Board, Chair Terrill opened the public hearing at this time.

As there were no questions from the public, Chair Terrill closed the public hearing and brought the discussion back to the Board.

Motion made by Vice Chair Flanigan, seconded by Mr. Ross, to approve the Application as submitted.

Mr. Rassing joined the meeting at this time (7:24 p.m.).

In a voice vote, the **motion** carried unanimously.

Vice Chair Flanigan suggested asking City Staff to look into recognizing the discrepancy along the Applicant's canal, and asking them to amend the property lines accordingly. Mr. Hart agreed to follow up on this with the City. Chair Terrill agreed that this would prevent issues that did not necessarily need to come before the Board in the future from being scheduled, and would save residents time and money.

Mr. Ross pointed out that vacations of easements are often seen on City Commission Agendas, and proposed that they might vacate the 11 ft. in this area. It was noted that the 11 ft. of waterway in question may belong to the State and not the City, in which case the City would not be able to vacate them.

Mr. DiPietro asked if this would create a property tax issue. Vice Chair Flanigan advised that when the homeowners' lot sizes are taken into account, this cost could be "considerable."

Mr. Adams asked if other property owners in the area have brought similar issues before the Board. Chair Terrill did not recall a variance request on this particular canal; Mr. Adams advised that if there would be a significant increase in property taxes, the owners might not want the issue raised.

VII. Application – Waiver of Beach Boating Restricted Area / C.O. Section 8-175 – Ocean Manor Resort Hotel: Roberto Valencia

Mr. Valencia stated the Application is for a waiver that would allow a watercraft concession. The property is a condominium hotel on Galt Ocean Mile.

Mr. Ross asked if the two properties abutting the Ocean Manor Resort Hotel have been notified of the Application, and if they have any objection. Mr. Valencia confirmed that these properties do not object.

Mr. Adams requested a brief explanation of the waiver. Mr. Hart clarified that the waiver would allow the Applicant to operate boats in a beach boating restricted zone, which allows no boating within 100 yards of shore without a waiver.

Mr. Tapp added that the City also operates a boating area on the public beach for the "same type of issue," and has established safety guidelines for the areas in which these concessions operate.

Mr. DiPietro asked how many such waivers have been issued. Mr. Hart explained that there are four waivers in total, including the City's beach concession. There

have been “no major problems” in these areas aside from the occasional safety issue, which would be addressed by the police.

Mr. Harrison asked if the concession would be open to the general public, or only to the hotel guests. Mr. Valencia replied it is intended for hotel guests, although there are no restrictions limiting public access; individuals could come in “off the beach” to use the concession. Mr. Hart added that the concession’s form releases both the hotel and the City from liability, and is the same form used by other such contractors.

Mr. Tilbrook asked what operations will be included in the concession. Mr. Valencia stated they will use only waverunners.

Ms. Flavin noted that the property to the south of Ocean Manor operates waverunners. Mr. Hart explained that Code allows for operation in the restricted zone if the property owner has ownership rights on the beach.

Mr. Swenson asked if there is a limit of how many such concessions can be on the beach within City limits. Mr. Hart advised that only commercial properties with ownership rights may have these concessions.

Mr. Swenson expressed concern that at some point in the future, concessions of this nature could make the beach “too commercialized.” Mr. Tilbrook felt the waiver process would limit such activity.

Chair Terrill stated when the City or the Board “start[s] hearing complaints,” this would be a consideration. Mr. Ross agreed with Mr. Swenson’s comment, and felt the Board has some responsibility in regulating the number of such concessions.

There being no further questions from the Board, Chair Terrill opened the public hearing at this time.

As there were no questions from the public, Chair Terrill closed the public hearing and brought the discussion back to the Board.

Motion made by Mr. Tapp, seconded by Mr. Adams, to approve the Application to operate in a beach boating restricted zone as stated. In a voice vote, the **motion** carried unanimously.

VIII. Reports

- **Broward County Marine Advisory Committee**

Mr. Adams stated that the Committee had held an organizational meeting earlier in the day to discuss the Enhanced Marine Law Enforcement Grant (EMLEG) program. Those seeking the grant will make their presentations to the Committee the following month.

- **New River Floating Dock Project**

Mr. Hart advised that the contract for construction work on this project was sent to the contractor today, and the project should be initiated within two to three weeks, pending approval of the bond. The City has received an extension for the grant money that is helping fund the project.

Ms. Scott-Founds asked if the project is expected to be complete by Winterfest 2010. Mr. Hart replied it should be complete by that time.

Mr. Rassing stated that he would like to commend Mr. Hart for moving this project forward.

- **Cooley's Landing Boat Ramp Replacement Project**

Mr. Hart reported that the issues that have slowed completion of this project have been resolved, and the first ramp is approximately 75% complete. Without rain delays, it can be expected to be finished within 60-90 days.

- **S.E. 15th Street Boat Ramp Improvement Project**

Mr. Hart stated that the site plan for this project requires the approval of the City Commission. Two public hearings are scheduled for March 2 and March 16, 2010.

- **Boat Hoists and Similar Moorings**

Chair Terrill advised that the City Commission voted to direct Staff to rewrite Code regarding these devices. They adopted all the Board's provisions, with the exception of slightly shortening the distance a lift may extend into the waterway from 30% or to 25%, and the dock length was "backed down" from 30 ft. to 25 ft.

When Staff has rewritten the Code, there will be two sittings of the City Commission to vote on this rewrite. Chair Terrill recommended that all Board members attend one or both of these meetings to show their support for the changes, and share their personal thoughts and observations on the issue. He emphasized that it is important that they "don't stop the push now."

Mr. Tilbrook commented that the City Commission “did a nice job” in handling this issue, and noted that although he had voted against the 30% recommendation, he is “comfortable” with the City Commission’s revision and will support it.

Mr. Adams asked if the revised regulations will be made available to the Board before the City Commission meetings. Chair Terrill did not feel this would be done; he believed Staff would go directly to the City Commission, who have shown their intent to “fast-track” the revision.

Mr. Adams asked if the Board members could be emailed when the planned meetings are scheduled. Mr. Hart agreed this could be done. Chair Terrill added that Board members will be able to read a “backup” of the recommended change before the meetings begin.

Vice Chair Flanigan observed that since the issue has gone to the Planning and Zoning Department, it might be best to lobby the Planning and Zoning Board. Chair Terrill clarified that the rewrite is not expected to go before that Board; it is his understanding that the revision “will go right to the Commission.” He agreed, however, that if it goes before the Planning and Zoning Board, the MAB should appear at the appropriate meeting to show their support.

Mr. Tilbrook recalled that the Board had made four separate recommendations, of which at least one was passed; he did not recall if they had acted on the remaining recommendations. Mr. Hart advised that they passed the increase to 25% or 25 ft., whichever is less; they also approved the height recommendation for lifting boats. The number of boat lifts per 100 ft. was not discussed by the City Commission.

- **Marine Workshop**

Mr. Hart stated that Staff would have a presentation on the Workshop by the Board’s next scheduled meeting. Chair Terrill requested that a summary of the Workshop be presented at the March 2010 meeting.

- **Commission Agenda Reports**

Mr. Hart informed the Board that the boat hoists were discussed at the Conference Agenda meeting, and the dock permit the Board had approved for 110 S.E. 11th Avenue was approved at the February 2, 2010 meeting.

IX. Old / New Business

Ms. Scott-Founds explained that Winterfest 2010 will be the kickoff event for the upcoming Fort Lauderdale Centennial year; the City’s Centennial is on March 27, 2011.

She continued that consideration is being given to changing the route of the Boat Parade. There is a possibility that instead of using the New River, the route will move "south, prior to the bridge, turning in front of the two hotels." This would add roughly 25 minutes to the parade. The recommendation from boat owners who have been consulted has been unanimous approval of the proposed route change. If the project is judged safe, the hotels give their support, and the cost increase is not prohibitive, she concluded that the change may be adopted.

She clarified that the boats would turn around "north of the bridge," and noted that the boaters are contributing ideas to make the proposed new route as easy as possible. Ms. Scott-Founds confirmed that the tugs will still be used.

She added that the change will not be made if it is not determined to be "completely...safe," and will come before the Board for approval. The new route would be expected to add more viewers for the Boat Parade.

Mr. Resing stated that he has never received an email from the Board, and receives "a lot of information" either at meetings or by reading the minutes. He suggested that members could be emailed as developments occur with the City Commission, Staff, zoning, and other areas of interest to the Board.

Chair Terrill noted that the most important upcoming issue is the City Commission's address of boat lifts, for which they would need to "get the Board out." He suggested that phone calls be made to confirm all the members' email addresses for updates.

Mr. Hart advised that the Sunshine Law applies to Board communication via email, although he pointed out that "if it's informational, [it is] OK." He emphasized that all members must receive the same email, and may not communicate back and forth about Board business.

Chair Terrill added that all emails must go through Mr. Hart's office: for example, if a member wants to notify the Board of an issue to consider, the appropriate action is to send an email to Mr. Hart, who would review it and then send it to all members.

X. Updated Communications to City Commission

There were no communications at this time.

Mr. Herhold stated that the 34th Annual Waterway Cleanup is planned for Saturday, March 6, 2010, from 9:00 a.m. to 1:00 p.m. There are roughly 32 sites, and he invited the Board to participate in the event. Flyers on the event will be available at all Publix stores.

Chair Terrill added that this event is “a lot of fun” and encouraged the Board members to take part as well.

XI. Adjournment

There being no further business to come before the Board at this time, the meeting was adjourned at 8:01 p.m.

[Minutes prepared by K. McGuire, Prototype, Inc.]